

# Criminal Law - Plea of Guilty in a Capital Case Without Counsel

Anonymous

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## ABSTRACTS

**Criminal Law — Plea of Guilty in a Capital Case Without Counsel.** — Defendant was accused of the crime of murder and without the advice of counsel, signed a written confession. He waived preliminary examination and was bound over to the circuit court for trial. An information was lodged against him and he was taken before the court for arraignment. He was asked if he had counsel and was advised that he was entitled to counsel. Defendant answered that he wished to waive that right. The question was repeated and he again answered that he wished to have no counsel. After the information was read to the defendant, he entered a plea of guilty. The court questioned the defendant, the sheriff, and the coroner, and the defendant repeated the contents of his confession. When the court indicated that he was about to impose a death sentence, the defendant interrupted, and repudiated his confession. The court sentenced the defendant to death. Defendant appealed and claimed that the court erred in receiving the plea of the defendant without advising him of his rights. The state claimed that the accused was a man of native intelligence and that a long criminal record must have acquainted him with court procedure and his rights in the premises. Reversing the judgment it was held that when one accused of a capital offense tenders a plea of guilty, unaided by counsel, nothing less than the utmost of caution will satisfy the requirements of justice. Until the court is persuaded by a painstaking explanation of the rights afforded the accused by the law, and of the extreme consequences the plea may entail, that the accused is acting with volition and understanding, a plea of guilty should not be entered. *State v. Sewell*, 12 N.W. (2d) 198, (S.D., 1943).

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**Equity—"Clean Hands" Maxim—When Applicable.**—Plaintiff, the copyright proprietor of a musical composition entitled "The Waltz You Saved for Me" sought an injunction and damages against defendant for infringing in Wisconsin its copyright under the Copyright Act, 17 U.S.C.A. 25. By contract, the non-dramatic public performing rights in the composition were vested in the American Society of Composers, Authors, and Publishers, which was authorized to license its rendition for profit. When defendant infringed the copyright, a communication was sent to him suggesting he obtain a license, and upon his refusal, suit was brought. Defendant contended that the plaintiff did not come into court with "clean hands" because of its failure to comply with Wisconsin statute 177.01 providing that no person other than the true composer shall issue licenses for the public